

Notice of Allowability

Application No.

10/823,796

Examiner

Thomas H. Parsons

Applicant(s)

TSUJI ET AL.

Art Unit

1745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 8 May 2007.
2. ☒ The allowed claim(s) is/are 1-12.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

Response to Amendment

This is in response to the Amendment filed 8 May 2007.

Specification

1. The objections to the disclosure because of minor informalities have been **withdrawn** in view of Applicants' Amendment.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

2. The rejections of claim 3 and 8 under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention have been **withdrawn** in view of Applicants' Amendment.

Claim Rejections - 35 USC § 102

3. The rejections of claims 1-2, 4, and 9-10 under 35 U.S.C. 102(b) as being anticipated by Kato et al. (US Patent Publication 2002/0187384) have been **withdrawn** in view of Applicants' Amendment.
4. The rejections of claims 1-2 and 5-8 under 35 U.S.C. 102(b) as being anticipated by Tsutomu (JP 08-148170) have been **withdrawn** in view of Applicants' Amendment.
5. The rejections of claims 1-2 and 5-8 under 35 U.S.C. 102(b) as being anticipated by Artibise et al. (U.S. Patent No. 7,070,876) have been **withdrawn** in view of Applicants' Amendment.

Response to Arguments

6. Applicant's arguments, see page 7 through page 10, filed 8 May 2007, with respect to claims 1-2 and 4-10 have been fully considered and are persuasive. The rejections of the claims have been **withdrawn**.

REASONS FOR ALLOWANCE

7. The following is an examiner's statement of reasons for allowance:

The claimed invention is directed, in part, to a fuel cell wherein at least one of the separators has a groove over an edge of at least one of the pair of electrodes, the depth of the groove is about 80% to about 120% of the compressed thickness difference of the electrode or a layer thereof or a layer thereon in contact with the separator, and the compressed thickness difference is defined under the pressure of 1MPa.

Neither of the prior art references of record, teach nor suggest, alone or in combination, the claimed groove.

Accordingly, claims 1 and 9 are patentably distinct from the prior art references of record.

The claimed invention is also directed, in part, to a fuel cell comprising at least one separator, wherein at least one of the separators has a groove to from a hollow space over an edge of the at least one of the pair of electrode, and the groove is isolated from the gas channel.

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Accordingly, claim 8, claim 11 and claims 2-7, which are dependent thereon, and claim 12 and claim 10, which is dependent thereon, are patentably distinct from the prior art references of record.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Examiner Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thomas H. Parsons whose telephone number is (571) 272-1290. The examiner can normally be reached on M-F (7:00-4:30) First Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Pat Ryan can be reached on (571) 272-1292. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR

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system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Thomas H Parsons
Examiner
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**PATRICK JOSEPH RYAN
SUPERVISORY PATENT EXAMINER**
